REMARKS

Claims 1 through 23 are pending in this application. Claim 1 is amended in several particulars for purposes of clarity in accordance with current Office policy, to assist the examiner and to expedite compact prosecution of this application.

I. SPECIFICATION

Some minor grammatical corrections were made in the specification in order to assist the Examiner and to expedite the compact prosecution of this application.

II. CLAIM REJECTIONS - 35 U.S.C. § 102

Claim 1-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Cromer et al. (6256732) (hereinafter Cromer). The Applicant respectfully traverses.

No claim is anticipated under 35 U.S.C. §102 (b) unless all of the elements are found in exactly the same situation and united in the same way in a single prior art reference. As mentioned in the MPEP §2131, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Every element must be literally present, arranged as in the claim. *Richardson v. Suzuki Motor Co.,* 868 F.2d 1226, 9 USPQ2d 1913, 1920 (CAFC 1989). The identical invention must be shown in as

complete detail as is contained in the patent claim. *Id.*, "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson,* 424 F.2d 1382, 165 USPQ 494, 496 (CCPA 1970), and MPEP 2143.03.

The Examiner stated that as per claims 1, 8 and 17, Cromer discloses a system for real-time device driver (see abstract). However, respectfully, the Abstract makes no disclosure of device drivers. The abstract of Cromer deals with facilitating of the configuring of the system while it is still in its shipping package so that the main computer does not have to be turned on. Clearly, Cromer is dealing with the BIOS as the packaged PC is not powered on. In fact in col. 1, lines 25-26, Cromer specifically states that the computer system is configured as to load customized programs and BIOS in particular. However, again, no teaching of real-time device drivers. The only time device drivers are mentioned in Cromer is when they are used only to identify the system along with MAC address and serial number of the system.

The Examiner mentions that Cromer discloses error handling of the device drivers (col 10, lines 62-64). However, col. 10, lines 62-64 deals with eliminating potential for operator error wen retrieving information from the system to be configured, where the operator is the user. Therefore, Cromer does not deal with "device driver" error handling, but of the errors involved in users retrieving information of the system to be configured.

The Examiner further stated that Cromer included a computer (col 2, lines 31-35) comprising a device driver (, a monitoring unit (col 4, lines 58-62 and col 5, lines 37-39).

Respectfully, Cromer does not disclose a "device driver" at all in Col. 4, lines 58-62 which talks about the video hardware and in col. 5, lines 37-39 which discloses a "circuitry" with auxiliary power (AUX) from the power supply 34 when the system 12 is in the off state so that it can monitor events which cause the system to turn off.

Respectfully, this "circuitry" of Cromer is not a device driver, but a separate hardware item of the computer.

The Examiner states that Cromer discloses device driver information (col 2, lines 3-15). However, looking at col. 2, lines 3-15, the WOL protocol is described for setting up as a network . client allowing the download of appropriate images. However, this description is not providing device driver information.

The Examiner further states that said monitoring unit monitors an operating state (col 7, lines 60-64) and searching said device driver information (col 2 lines 3-15), and outputting said diagnosing message to said computer (col 10, lines 22-25) when said device driver errors occur (col 6 lines 61-67).

However, col. 7, lines 60-64 the packaged computer is identified and it capabilities are recognized which does exactly entail monitoring the operating state.

Col. 2, lines 3-15 clearly does not disclose the searching of device driver information as this

is never mentioned. Only procedures involving WOL and setup as a client computer are disclosed without any disclosure of "searching said device driver information." As mentioned above, in the MPEP 2131, every element must be literally present, arranged as in the claim and the identical invention must be shown in as complete detail as is contained in the patent claim. *Richardson v. Suzuki Motor Co.,* 868 F.2d 1226, 9 USPQ2d 1913, 1920 (CAFC 1989). Here, the identical invention is not disclosed as Cromer discusses configuration of a computer that is still in its packaging before being shipped.

The Examiner mentions that Cromer discloses a web server (col 6, lines 28-29 and lines 35-47, it is inherent that web server is a type of remote server that provides Web services and pages to intranet and Internet users) comprising a driver (col 10, lines 7-10) error handling program (col 10, lines 62-64), said device driver error handling program storing a standard driver information (col 10, line 7-10), performing a diagnosis of said device driver by comparing said standard driver information with said device driver information (col 10, lines 1-8), and displaying said diagnosing result on said computer (col 10, lines 20-42).

Again, all the limitations must be disclosed, exactly as arranged in the claim under 35USC§102 anticipation rejection. Col. 6, lines 28-29 only mentions that main computer 102 can be a client, personal computer or server which just about covers everything. Col. 6, lines 35-47 only mention that the connection is a LAN connection between 12 and 102. However, being a server connected in a LAN network does not disclose being a remote server that provides web services.

The device driver information mentioned in col. 10, line 2 is only identity information as the .

text goes on to state the network administrator can check to see if the system is known. This does not disclose device driver error handling program storing a standard driver information, performing a diagnosis of said device driver by comparing said standard driver information with said device driver information, and displaying said diagnosing result on said computer. Cromer is only using the information for identifying the computer as certain computer and therefore processing a certain image on the computer based on the identity of the computer in the package. However, Cromer is not comparing standard driver information with the device driver in order to diagnose a possibility of an error. Furthermore, the network administrator is manually making an identification of the system through the names of the device driver. Cromer is not disclosing the device driver handing program making the comparison and Cromer is not diagnosing the device driver but identifying it only.

The Examiner mentioned that Cromer discloses the displaying said diagnosing result on said . computer (col 10, lines 20-42). However, col. 10, lines 20-42 is only discussing the well known booting process that shows the BIOS self test results which have nothing to do with disclosing diagnosing results of the device driver error handling program but of a separate BIOS self test that checks hardware connection of the keyboard etc.

As per claims 2, 12, 18 and 19, the Examiner stated that Cromer discloses with said web server (col 6, lines 28-29 and lines 35-47), it is inherent that web server is a type of remote server that provides Web services and pages to intranet and Internet users.

As mentioned above by the MPEP §2131, a claim is anticipated only if each and every

element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Each of the elements are not expressly described. Inherent description is also not pertinent in this discussion, because inherency is involved only where a minor, well-known feature is lacking. Further the CCPA has added that "inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing *may* result from a given set of circumstances is not sufficient." *In re Oelrich*, 666 F.2d 578, 581, 212 USPQ 323, 326 (CCPA 1981). "Web server" is clearly claimed in the present invention, and therefore, it is not an insignificant limitation. Therefore, inherency in terms of a web server is inappropriate. Furthermore, being a server in a LAN does not necessarily mean that it is a web server.

The Examiner states that Cromer discloses a first portion storing said standard driver information (col 10, lines 7-8); a second portion interpreting said device driver information (col 10, line 7-10) searched by said monitoring unit (col 2, lines 23); a third portion performing a diagnosis of said device driver by comparing said standard driver information (col 10, lines 1-8) from said first portion with said device driver information from said second portion (col 10, lines 1-8); and a fourth portion displaying the diagnosing result from said third portion to said computer (col 10, lines 20-42).

However, as mentioned above, in col. 10, lines 1-42, no such disclosure is shown. These distinct, portions, first portion through fourth portion are not disclosed at all. Cromer only discloses that from the MAC address, serial number and device driver info (basically this is usually the device driver names only--identity information), the system administrator manually is then able to identify

the system so he or she can manually instruct the installation of a certain image for the computer. Then as stated in col. 10, lines 11-12, "Once the custom image is prepared, it can be transferred..." Then later, Cromer states that the system is energized for the BIOS self test. Cromer is not disclosing limitations as arranged in the claims.

Cromer does not disclose a third portion performing a diagnosis of the device driver by comparing the standard driver information stored on the first portion, because in Cromer. only an identification action is performed and that too is done manually by a person known as the system or network administrator.

Furthermore, Cromer does not disclose the second portion that interprets the device driver information searched by the monitoring unit. The Examiner earlier corresponded circuitry 66 inappropriately as the monitoring unit. However, the circuitry 66 only monitors events which cause the system to turn on as mentioned in col. 5, lines 37-40. The "monitoring unit" of Cromer is not searching for the device driver information. Furthermore, Cromer does not have the second portion because, the only time the device driver information is used is when the network administrator manually identifies the system as being a certain type of system.

The Examiner states that the standard driver information is stored by Cromer in the first portion, however, in col. 10, lines 1-10, Cromer only states that from the information, it is checked whether the system is known or not. If it is not known, the system administrator assigns a default configuration or removes the system. There is no disclosure of storing "standard driver information."

Cromer does not disclose a fourth portion displaying the diagnosing result from the *third portion* to said computer. In col. 10, lines 20-42 only talks of the regular BIOS self test checks. This

is not diagnosis information obtained from the third portion but a completely separate process.

As per claims 3, 9, 10, and 20, the Examiner states that Cromer discloses a displaying of the error correction result to said computer after automatically correcting the error by said standard diagnosis information stored in said first portion in case of an automatically correctable error (col 7, lines 59-67), said fourth portion displaying how to correct the error to said computer in case of automatically uncorrectable error when the device driver error occurs (col 8, lines 1-20).

Respectfully, col. 7, lines 59-67 makes no disclosure at all of *automatically correcting the error by said standard diagnosis information stored in said first portion*. Col. 7, lines 59-67 only generally state the transmission of identification and capability information to a network administrator to allow the administrator to configure the system. There is no disclosure of error handling or diagnosis or even correcting an error. There is no discussion of correcting any type of error. Furthermore, the fact that the network administrator has to make the decision on configuring the system, shows that *automatically* is not disclosed by Cromer.

As per claims 4, 11, and 13, the Examiner stated that Cromer discloses with said monitoring unit being a file of said computer (col 18, lines 11-12), said file being a logical block of computer information as designated by a name and treated as a unit (col 2, lines 23-29).

First of all, Cromer has no column 18. Therefore, all lines 11-12 were looked at with no . disclosure of the *monitoring unit* being a file on a computer. Furthermore, in the rejection of claim 1, the Examiner stated that the monitoring unit is disclosed by col. 4, lines 31-35 and col. 5, lines

37-39 which only discloses a "circuitry" 66 which is not a file on a computer. Nothing else in Cromer contradicts that notion that circuitry 66 is a file.

As per claims 5, and 14, the Examiner stated that Cromer discloses, with said file not being able to be manipulated by a user of said computer (col 2, lines 23-29, automatically simply means no manual intervention).

However, col. 2, lines 23-29 only states that the identification and capabilities are sent across the network to a main computer to allow for automatic registration. This use of automatic registration does not disclose that the monitoring file being unable to be manipulated by the user. No such disclosure is shown at all. The text of col. 2, lines 23-29 do not relate to the monitoring file, but instead only make a vague general desire to have automatic registration which has no relation to the claimed limitation of, specifically, the file not being able to be manipulated by the user.

As per claims 6, and 15, and 21, the Examiner stateed that Cromer discloses with said standard driver information being changeable by an operator (col 10, lines 7-10) of said web server (col 6, lines 28-29 and lines 35-47. The Examiner states that it is inherent that web server is a type of remote server that provides web services and pages to intranet and Internet users, web page is a document written in HTML and stored on the server, it may refer to images which appear as part of the page when it is displayed by a web browser.

As shown above, to say that a web server is inherent is inappropriate reason for a rejection. The Examiner must show this limitation in the reference.

In col. 10, lines 7-10 it only states that if the system is known, then the network administrator can build an image for the system using the serial number. However, this is not stating that the "standard driver" information can be changed by the operator. The Examiner is improperly conjecturing by using a different set of circumstances. Building an image for the system is not the same as changing standard driver information. No "change" is disclosed.

As per claims 7, 16, and 22, the Examiner stated that Cromer discloses with the automatically uncorrectable error being a hardware error of said computer or a device corresponding to said device driver (col 10, lines 20-42).

However, as shown above, col. 10, lines 20-42 is related to the separate ordinary BIOS check and not related to the specific limitations of the present invention. Cromer is not using the information in the BIOS check in handling the error. Different portions are being spliced together, improperly by the Examiner. The limitations must be disclosed as *arranged* in the claims.

As per claim 23, the Examiner stated that Cromer discloses a correction of the error when the error is automatically correctable and when said first computer opted no correction in said step of prompting a response from said first computer (col 10, lines 57-65); executing no correction of the error when the recommendation is not accepted; and correcting the error when the recommendation is accepted (col 9, lines 11-37).

However, col. 10, lines 57-65 disclose only a vague general notion of automatically transmitting identity and capabilities and eliminating "operator error" or mistakes made by operators.

Transferring automatically identity and capability information is not the same as automatically correcting the error. Cromer is aspiring to reduce "operator errors" and not correct device driver errors. These limitations are clearly different.

Respectfully, Cromer clearly does not anticipate the present invention as claimed. The standards for anticipation are high and Cromer clearly lacks the disclosure to anticipate the present invention. As mentioned above, in the MPEP §2131, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference and also that. every element must be literally present, arranged as in the claim. Clearly, Cromer does not disclose each and every element as set forth in the claims of the present invention.
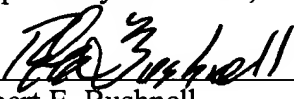
In view of the foregoing amendments and remarks, all claims are deemed to be allowable and this application is believed to be in condition to be passed to issue. If there are any questions, the examiner is asked to contact the applicant's attorney.

No fee is incurred by this Amendment. Should there be a deficiency in payment, or should

other fees be incurred, the Commissioner is authorized to charge Deposit Account No. 02-4943 of

Applicant's undersigned attorney in the amount of such fees.

Respectfully submitted,

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